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PATENT
Attorney Docket No.: MSA-021.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Nicklin, Martin & Barton, Jenny
Serial No.: 09/617,720
Filed: July 17, 2000
For: *IL-1L1 Gene and Polypeptide Products*

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Group Art Unit: 1647 FEB 07 2002

TECH CENTER 1600/2900

Examiner: Hamud, F.

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January 17, 2001

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Terrell Williams

Assistant Commissioner of Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement dated September 17, Applicants provisionally elect with traverse the invention set forth in Group II, claims 12-22 and 24, “drawn to an isolated nucleic acids comprising the nucleotide set forth in SEQ ID No. 1, 2, 3 and 4, classified in class 536, subclass 23.5.” The time for responding to this Restriction Requirement has been extended by the accompanying petition for a three month extension of time and fee. Applicants detailed reasons for traversing the Restriction Requirement are stated below.

Applicants respectfully submit that the Examiner has not set forth a convincing argument that the search and examination of both the claims of Group I, "drawn to IL-L1 polypeptides, and the claims of Groups II, "drawn to IL-1L1 nucleic acids," kits comprising primers," would be unduly burdensome. In particular, Applicants note that examination of both of these groups could be conducted with a single prior art search. Therefore, it is Applicants belief that the

Restriction Requirement is in error and the Examiner has not shown that a serious burden would be required to examine the claims of both Groups I and II together.

The Restriction Requirement further states that, upon election of one of the groups, Applicants must additionally elect a single polypeptide or nucleic acid because "each of the polypeptides and nucleic acids are independent and distinct because no common structural or functional properties are shared." Applicants respectfully traverse this additional Restriction Requirement because the recited IL-1L1 nucleic acids are properly joined as a single invention, each being related as mammalian homologs of the IL-1L1 gene (SEQ ID NO. 1 and 4) or as alternatively 5' ends (SEQ ID NO. 2 and 3) of the human IL-1L1 gene (SEQ ID NO. 1). Nevertheless, Applicants provisionally elect with traverse the human IL-1L1 gene (SEQ ID NO. 1). Applicants maintain that SEQ ID NO. 1, should be searched alone and in conjunction with each of the two alternative 5' ends disclosed as SEQ ID Nos. 2 and 3 as described in the instant application.

Should there be any questions after review of this paper, the Examiner is invited to contact Mr. Olesen at (617) 832-1764. If there are any other fees due in connection with the filing of this response, please charge the fees to our **Deposit Account No. 06-1448**.

Respectfully submitted,
FOLEY, HOAG, & ELIOT

January 17, 2001



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